

IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

STEVE W. DAVISON, individually, and on
behalf of the ESTATE OF MARGARET
DAVISON; and MICHAEL DAVISON,
individually

Plaintiffs,

vs.

LSREF GOLDEN OPS 26 (WA), LLC, a
foreign Limited Liability Company, d/b/a
“ORCHARD POINTE SENIOR ALZHEIMER
COMMUNITY” and SLH RAINIER
MANAGER, LLC, a foreign Limited Liability
Company, d/b/a “ORCHARD POINTE
SENIOR ALZHEIMER COMMUNITY”,

Defendants.

Case No.

NOTICE OF REMOVAL OF ACTION
UNDER 28 USC § 1332(a)(2)

(Clerk’s Action Required)

Kitsap County Superior Court
Case No. 20-2-01277-18

TO: THE CLERK OF THE COURT

AND TO: ALL PARTIES OF RECORD AND THEIR COUNSEL.

PLEASE TAKE NOTICE that Defendant LSREF GOLDEN OPS 26 (WA), LLC.
 (“LSREF”), hereby gives notice of the removal of the above-captioned action, Cause No. 20-2-
01277-18, currently pending in the Superior Court of Kitsap County, Washington, to the United
States District Court for the Western District of Washington at Tacoma on the grounds set forth
below:

1 I. STATE COURT ACTION

2 The State Court action to be removed is *Steve W. Davison v. LSREF GOLDEN OPS 26*
 3 *(WA), LLC*. was filed in Kitsap County Superior Court, State of Washington, on August 21,
 4 2020, and served upon LSREF through Acceptance of Service of Process by LSREF Golden Ops
 5 26 (WA), LLC d/b/a "Orchard Pointe Senior Alzheimer Community" on August 31, 2020. A true
 6 and correct copy of the Complaint for Damages filed in Kitsap County Superior Court Case No:
 7 20-2-01277-18 is attached as **Exhibit A**. This is a civil action arising out of negligence, violation
 8 of RCW 73.34, and wrongful death claims, with claims made by Plaintiff for money damages
 9 being sought.

10 On October 8, 2020, Kitsap County Superior Court granted Plaintiff's Motion for CR
 11 41(a)(1)(B) Dismissal without Prejudice, dismissing Defendant Prestige Senior Management
 12 d/b/a Orchard Pointe Senior Alzheimer Community. A true and correct copy of the Stipulated
 13 Order Granting Plaintiff's Motion for CR 41(a)(1)(B) Dismissal without Prejudice filed in Kitsap
 14 County Superior Court Case No: 20-2-01277-18 is attached as **Exhibit B**. On December 3, 2020,
 15 Plaintiff filed an Amended Complaint in Kitsap County Superior Court via mail. A true and
 16 correct copy of Plaintiff's Amended Complaint for Damages filed in Kitsap County Superior
 17 Court Case No: 20-2-01277-18 is attached as **Exhibit C**.

18 II. TIME FOR REMOVAL

19 This Notice of Removal is timely. Under 28 U.S.C. § 1446(b)(1), a defendant must file a
 20 notice of removal within 30 days after receipt of a copy of the initial pleading, through service or
 21 otherwise, setting forth the claim for relief upon which such action or proceeding is based. Here,
 22 LSREF received notice of the initial pleading on August 31, 2020, when Plaintiff's Complaint
 23 was served on the registered agent of LSREF. Plaintiff's Complaint did not identify an amount in
 24 controversy. On September 11, 2020, Defendant LSREF served Requests for Admission on
 25 Plaintiffs, which confirmed the amount of controversy exceeded the jurisdictional limit. On
 26 October 5, 2020, Plaintiffs informed the defense they were dismissing an improper party; and, on
 27 October 8, 2020, the improper party was dismissed from the case. On November 10, 2020,

1 Defendant LSREF was served Plaintiff's Amended Complaint, which Plaintiff stated was mailed
2 to the Court for filing and informed Defendant LSREF that conformed copies would be
3 forwarded once received. This Notice of Removal is being filed within thirty days of the filing of
4 the Amended Complaint.

5 III. GROUNDS FOR REMOVAL

6 LSREF removes this case to federal court pursuant to 28 USC § 1332(a)(2) based on this
7 Court's original jurisdiction in which the matter in controversy exceeds \$75,000. Plaintiffs are
8 citizens of Washington State and Defendant LSREF is a foreign corporation. Plaintiffs answered
9 Requests for Admission on October 5, 2020, admitting that the matter in controversy exceeds
10 \$75,000. 28 USC § 1332(a) states that the United States District Courts shall have original
11 jurisdiction over all civil matters meeting these standards. *See Exhibit D.*

12 IV. REQUIRED DOCUMENTS

13 Defendant LSREF will promptly give written notice to all adverse parties. 28 USC §
14 1446(d).

15 In accordance with 28 USC § 1446 and LCR 101 (b)(1) and (3), a copy of the operative
16 complaint is attached and filed herewith as **Exhibit C**.

17 Opposing counsel is listed below and is being served with a copy of this Notice as set
18 forth in the Declaration of Service below in accordance with LCR 101(b)(2).

19 Defendant LSREF will answer Plaintiff's Complaint for Damages within 7 days after the
20 notice of removal is filed. Fed. R. Civ. P. 81(c)(2)(C).

1 DATED this 08th day of December, 2020.

LEWIS BRISBOIS BISGAARD & SMITH LLP

2
3 By: /s/Heather M. Jensen

4
5 By: /s/Rachelle R. Stefanski

6 Heather M. Jensen, WSBA #29635
7 Rachelle R. Stefanski, WSBA #56353
8 1111 Third Avenue, Suite 2700
9 Seattle, Washington 98101
10 (206) 436-2020

11 Heather.Jensen@lewisbrisbois.com
12 Rachelle.Stefanski@lewisbrisbois.com

13 Attorneys for Defendant LSREF GOLDEN OPS
14 26 (WA), LLC
15
16
17
18
19
20
21
22
23
24
25
26
27

DECLARATION OF SERVICE

I hereby certify that on this 08th day of December, 2020, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will send notification of such filing to all attorneys of record.

Amanda M. Searle asearle@connelly-law.com
Matthew Wurdeman MWurdeman@connelly-law.com
Connelly Law Offices, PLLC
2301 North 30th Street
Tacoma, WA 98403
Tel: (253) 593-5100
Fax: (253) 593-0380

/s/Christopher Moore
Christopher Moore, Legal Secretary
Christopher.Moore@lewisbrisbois.com